

## Fiscal Note

*Fiscal Services Division*



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**HF 585** – Victims of Violence, Information Protections, Criminal Surcharge (LSB1739HV.2)  
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Fiscal Note Version – As amended by Senate amendment **H-1233**

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### **Description**

**House File 585**, as amended by Senate amendment **H-1233**, establishes an address confidentiality program in the Secretary of State's Office for victims of domestic abuse, domestic abuse assault, sexual abuse, stalking, or human trafficking. The Secretary of State's Office will assign a designated address where all mail for the program participant is sent. A program participant is certified for four years unless the certification is canceled, withdrawn, or invalidated. In addition, a program participant, who is otherwise eligible to vote, may annually register with the state commissioner of elections as an absentee voter.

**House File 585**, as amended by Senate amendment **H-1233**, creates a surcharge of \$100 if an adjudication of guilt or a deferred judgment has been entered for the crime of domestic abuse assault, sexual abuse, stalking, or human trafficking and a domestic abuse protective order contempt surcharge of \$50 for a person held in contempt of court for violating a domestic abuse protective order. The surcharges take effect July 1, 2015, and the program takes effect January 1, 2016. Senate amendment H-1233 creates an Address Confidentiality Program Revolving Fund. Monies in the Fund will be collected by the Clerks of Court from the surcharges and appropriated by the General Assembly to the Secretary of State's Office. The Secretary of State's Office is required to present an annual report to the Department of Management and the Legislative Services Agency on expenditures from the Fund.

### **Background**

There are three types of protective orders in Iowa (Iowa Code chapter **664A**). Anyone can file a civil protective order for domestic abuse by filling out a form at any county courthouse. The three types of protective orders are as follows:

- **No-Contact Orders** – These are criminal orders that can be issued for domestic abuse assault crimes or any other public offense when the victim has been physically, emotionally, or financially harmed (Iowa Code section **664A.2**). A no-contact order can only be issued by a judge in response to a criminal act when the defendant has been arrested and charged.
- **Temporary Protective Orders** – These are civil orders that allow victims of domestic violence immediate protection. Victims can file for temporary protective orders and can act as their own attorney, regardless of whether criminal charges have been filed against the abuser or not. This type of order is usually only in effect until the defendant is served a notice and the court hearing to obtain a permanent protective order is scheduled.
- **Permanent Protective Orders** – These are civil orders issued to domestic abuse victims (Iowa Code section **236.2**) after a court hearing. Permanent orders can establish custody arrangements and may require the defendant to pay court costs, vacate the home, forfeit weapons, attend counseling, or provide financial support for the victim or their children. Permanent orders are effective for up to one year (with a one-year extension) and can only be lifted by a judge.

Protective order violations can either be treated as a civil contempt or a criminal simple misdemeanor charge (Iowa Code section **664A.7**). Criminal charges can be filed by the county attorney and the defendant is arrested and, if found guilty, subject to applicable penalties. If the

incident does not result in an arrest, the alternative is for the victim to file for civil contempt at the Clerk of Court's Office.

In FY 2014, there were a total of 23,102 no-contact and protective orders issued.

- No-Contact Orders - 15,291
- Protective Orders - 3,201
- Temporary Protective Orders - 4,610

## **Assumptions**

### **Surcharge Assumptions**

- [House File 585](#), as amended by Senate amendment [H-1233](#), requires the Clerks of Court to deposit money collected from the surcharges in the Address Confidentiality Program Revolving Fund. This requirement will increase the workload of Clerks of Court but the impact is anticipated to be minimal. The money in the Fund is subject to appropriation by the General Assembly.
- The \$50 Domestic Abuse Protective Order Contempt Surcharge under the Bill is applied to the violation of protective orders issued under Iowa Code chapter [236](#) civil cases.
- The average number of contempt cases for violation of Iowa Code chapter [236](#) protective orders from FY 2012 through FY 2014 is 661. The collection rate is assumed to be 55.8%. The surcharge will become effective July 1, 2015. In FY 2016, a lag effect of three months is assumed from the time the fine is assessed and when the fine is paid.
- There were no convictions of Iowa Code section [710A.2](#) for the period FY 2012 to FY 2014.
- The following table shows a three-year average of convictions for violations of Iowa Code chapter [709](#), Sex Abuse; Iowa Code section [708.11](#), Stalking; Iowa Code section [708.2A](#), Domestic Abuse Assault; and Iowa Code section [236.2](#), Domestic Abuse.

**FY 2012 through FY 2014 Three-Year Average Convictions**

<b>Case Type</b>	<b>Sex Abuse</b>	<b>Stalking</b>	<b>Domestic Abuse Assault</b>	<b>Domestic Abuse</b>	<b>Total Average Convictions</b>
Simple Misdemeanor	88	0	942	8	1,039
Serious Misdemeanor	71	0	958	3	1,032
Aggravated Misdemeanor	124	26	727	1	878
Class D Felony	56	14	116	0	186
Class C Felony	262	0	0	0	262
Class B Felony	58	0	0	0	58
Class A Felony	3	0	0	0	3
<b>TOTAL</b>	<b>662</b>	<b>40</b>	<b>2,743</b>	<b>12</b>	<b>3,458</b>

\* Totals may not add due to rounding.

- The following table shows the average amount collected from the \$100 surcharge and applies collection rates to the applicable offenses. The surcharges will become effective July 1, 2015. A lag effect of six months is assumed between the time the fine is assessed and the time the offender begins paying on the fine.

### Revenue Estimate for the \$100 Domestic Abuse Assault, Stalking, and Sexual Abuse Victim Surcharge

Case Type	Total Average Convictions	Proposed \$100 Domestic Abuse Assault, Stalking, and Sexual Abuse Victim Surcharge	Surcharge Revenue Imposed	Current Collection Rate	Total Estimated Revenue
Simple Misdemeanor	1,039	\$ 100	\$103,867	27.9%	\$ 28,979
Serious Misdemeanor	1,032	100	103,167	21.9%	22,594
Aggravated Misdemeanor	878	100	87,767	14.2%	12,463
Class D Felony	186	100	18,633	6.6%	1,230
Class C Felony	262	100	26,233	6.6%	1,731
Class B Felony	58	100	5,767	6.6%	381
Class A Felony	3	100	300	6.6%	20
<b>TOTAL</b>	<b>3,458</b>		<b>\$345,734</b>		<b>\$ 67,398</b>

\* Totals may not add due to rounding.

### Program Assumptions

- The Secretary of State's Office estimates approximately 150 program participants the first year and approximately 500 program participants in the second year.
- Seventy-five percent of the program participants will request absentee ballots (112 absentee ballots in the first year and 375 absentee ballots in the second year).
- Participants will vote in three elections per year (two statewide elections and one special election).
- Priority express mail postage costs \$19.99 each.
- The estimated cost to mail absentee ballots is approximately \$4,500 in the first year and \$22,500 in the second year.
- Certified mail costs \$6.48 each. The certified mailing costs are estimated to be approximately \$1,600 in the first year and \$3,200 in the second year.
- No new programming costs are required for the IVoters System.
- The cost for an Administrative Assistant I is \$72,000 in FY 2016 and \$70,000 in FY 2017. This includes a one-time support cost of \$5,000 in FY 2016.
- Although the program does not begin until January 1, 2016, the Secretary of State's Office will fill the position July 1, 2015. The first six months of employment would consist of creating and distributing communication materials, assisting in developing administrative rules, web design, working with county officials and State agencies on business practices, and creating in-house systems for the program.
- The printing costs for promotional brochures and information packets are estimated to be \$5,200 in the first year and \$6,700 in the second year.
- The Judicial Branch is required to submit the revenue from the surcharges in [HF 585](#), as amended and passed by the House, to the Treasurer's Office. The Treasurer will transfer the revenue quarterly to the Secretary of State's Office for the administration of the program.
- The Child Support Recovery Unit in the Department of Human Services will incur one-time costs for IT programming and staff time totaling an estimated \$69,000 of which \$24,600 is the State share. The Department plans to redirect priorities to absorb the costs within their current budget.

### Fiscal Impact

The portion of the Bill that creates the surcharges takes effect July 1, 2015. The following table shows the estimated fiscal impact from the revenue generated through the \$100 Domestic Abuse Assault, Stalking, and Sexual Abuse Victim Surcharge established in Iowa Code section [911.2B](#), and the \$50 Domestic Abuse Protective Order Contempt Surcharge established in Iowa Code section [911.2C](#).

### Estimated Surcharge Revenue Impact

	FY 2016	FY 2017
<b>\$100 Domestic Abuse Assault, Stalking, and Sexual Abuse Victim Surcharge</b>	\$ 33,500	\$ 67,000
<b>\$50 Domestic Abuse Protective Order Contempt Surcharge</b>	13,800	18,400
	<u>\$ 47,300</u>	<u>\$ 85,400</u>

The portion of the Bill that creates the program takes effect January 1, 2016. The following table shows the fiscal impact to the Secretary of State's Office.

### Estimated Program Impact on the Secretary of State's Office

	FY 2016	FY 2017
<b>Absentee Voting Mail Costs</b>	\$ 4,500	\$ 22,500
<b>Certified Mailing Costs</b>	1,600	3,200
<b>Printing Costs</b>	5,200	6,700
<b>Staffing For 1.0 FTE Position</b>	72,000	70,000
	<u>\$ 83,300</u>	<u>\$ 102,400</u>

The net impact is a deficit of \$36,000 in FY 2016 between the amount of revenue generated by the surcharges and the estimated costs incurred by the Secretary of State's Office and \$17,000 in FY 2017. Senate amendment [H-1233](#), permits the Secretary of State's Office to temporarily use General Fund money to meet cash flow needs and requires the Secretary of State's Office to reimburse the General Fund by the close of the fiscal year.

### Sources

Judicial Branch  
Criminal Juvenile Justice Planning Division  
Office of the Secretary of State  
Department of Human Services

/s/ Holly M. Lyons

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.